

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

TANIELLE SHURNEY,)	
)	
Plaintiff,)	
)	
V.)	Civil Action No. 05-196E
)	Judge Sean J. McLaughlin
)	
SCOTT ENTERPRISES, INC.;)	
TROOPER SEAN PIERCE;)	
JOHN DOE,)	
)	
Defendants.)	

**DEFENDANT TROOPER SEAN PIERCE'S
CONCISE STATEMENT OF MATERIAL FACTS**

AND NOW, comes the Defendant, Trooper Sean Pierce, by his attorneys, Thomas W. Corbett, Jr., Attorney General, Susan H. Malone, Chief Deputy Attorney General and Susan J. Forney, Chief Deputy Attorney General, Chief Litigation Section, and submits the following Concise Statement of Material Facts in support of his Motion for Summary Judgment in accordance with LR 56.1.

1. Plaintiff, Tanielle Shurney, is an adult individual residing in East Cleveland, Ohio. (Complaint, ¶1).
2. On the evening of June 25, 2004, a woman identifying herself as Tanielle Shurney telephoned the Econolodge reservation center to reserve a hotel room and five passes to Splash Lagoon for two adults and three children for July 3, 2004. (Purchase Deposition, pp. 11-14).
3. A credit card was required to finalize the reservation. The woman who identified herself as Tanielle Shurney called back later that night, asked to speak with

Kristen Mooney and stated that her cousin, Tracey Smith, had agreed to put the charges on her credit card. (*Id.* at pp. 14-15, 43).

4. A woman who identified herself as Tracey Smith then got on the phone and provided Kristen Mooney with Master Card account #5449270911030937. (*Id.* at pp. 14-15).

5. The Master Card account was charged at that time and a reservation of one hotel room and five passes to Splash Lagoon for two adults and three children in the name of Tanielle Shurney was complete. (*Id.* at p. 5).

6. The Master Card account used to secure the reservations was a debit account with Key Bank belonging to Tonya Traylor (“Traylor”) of Streetsboro, Ohio. Traylor checks the activity on her Key Bank debit account daily on the internet. (Traylor Deposition, p. 12; Plaintiff’s Admission ¶2).

7. Traylor discovered on June 30, 2004 that her account was overdrawn and that several unauthorized charges, including a charge in the amount of \$198.79 to Splash Lagoon, had been deducted from her account. (*Id.* at p. 13).

8. Traylor immediately contacted Splash Lagoon and reported that she had neither made nor authorized the use of her debit account to secure a reservation. She then reported the unauthorized use of her debit card to Patrolman Jon Hurley of the Streetsboro Police Department who undertook an investigation. (*Id.* at pp. 17-19; Hurley Deposition, pp. 10-15; Plaintiff’s Admission ¶¶6, 7).

9. Patrolman Hurley contacted Patty Purchase, Manager of the Reservation Center for the Econolodge and learned that the reservation had been made by Tanielle Shurney. Patrolman Hurley advised Ms. Purchase that the reservation had been made

with a stolen credit card and instructed her to call the Pennsylvania State Police in Erie when someone appeared to check in under the Tanielle Shurney reservation. (Purchase Deposition, p. 41; Hurley Deposition, p. 12; Plaintiff's Admission ¶8).

10. On July 2, 2004, Patrolman Hurley contacted the Pennsylvania State Police, explained the situation, and requested their assistance with the investigation. (Hurley Deposition, pp. 13, 39-40, 49-51).

11. At approximately 8:00 p.m. on July 2, 2004, a woman who identified herself as Tanielle Shurney called the Econolodge to verify her reservations and asked to speak with Kristen Mooney. The woman was referred to Patty Purchase, who was aware of the situation. (Purchase Deposition, pp. 25-26).

12. The woman identified herself as Tanielle Shurney and advised Patty Purchase that the credit card used to make the reservations belonged to her cousin, Tracey Smith. (*Id.* at pp. 14-15, 43).

13. On July 3, 2004, Tanielle Shurney was among a party of three adults and four children who arrived at the Econolodge at approximately 2:00 p.m. (Shurney Deposition, p. 108).

14. Plaintiff went alone into the Econolodge to register. She signed for the room and passes to Splash Lagoon using the debit card account number which had been reported stolen by Traylor. (*Id.* at pp. 33-34).

15. Plaintiff told the desk clerk that she did not have the Master Card with her. She presented photo identification and obtained the room key and Splash Lagoon passes. At the time, plaintiff had in her possession a debit card in her own name with U.S. Bank and \$250. (*Id.* at pp. 26, 59, 78-80).

16. The registration indicated that two adults and three children would be staying in the room. In fact, there were three adults and four children who intended to stay in the room. (*Id.* at pp. 108-109).

17. Trooper Sean Pierce graduated from the Pennsylvania State Police Academy in April of 2004 and was assigned to the Lawrence Park Barracks as a trooper in the patrol division. He was in a trainee status working with a coach, Trooper James R. Szymanski, at the time of this incident. (Pierce Deposition , p. 5)

18. Trooper Szymanski and Trooper Pierce were dispatched to the Econolodge at approximately 2:00 p.m. on July 3, 2004 after Econolodge employees notified the Pennsylvania State Police that Tanielle Shurney had appeared to claim her reservation. (*Id.* at pp. 8-9).

19. Trooper Szymanski remained in the parking lot while Trooper Pierce conducted the investigation. Trooper Pierce interviewed the desk clerk who processed plaintiff's reservation. The desk clerk identified Tanielle Shurney as the person who made the reservation using the stolen credit card and identified Tanielle Shurney as the person who signed for the room and passes and placed the charges on the stolen account. (*Id.* at pp. 10-14).

20. Trooper Pierce was provided with a copy of the receipt for the room which was signed by plaintiff using the Master Card account. He was also provided with a copy of plaintiff's Ohio driver's license. He was informed that Tanielle Shurney had made the reservation. (*Id.* at p. 44).

21. Trooper Pierce presented the evidence to his coach, Trooper Szymanski, who determined that there was probable cause to arrest plaintiff on charges of Theft by Deception and Access Device Fraud. (*Id.* at p. 43).

22. Trooper Szymanski approached plaintiff, asked to see her photo identification and placed her under arrest. (*Id.* at pp. 22-23; Docket #1; Shurney Deposition, p. 35).

23. Plaintiff was transported to the state police barracks where she was read her Miranda rights and questioned by Trooper Pierce. She told Trooper Pierce that the reservations were made by Tracey Smith. She provided an address, but no phone number, for Tracey Smith. This is the first time Trooper Pierce heard the name or alleged involvement of Tracey Smith. (Pierce Deposition, pp. 17-20, 55; Shurney Deposition, p. 108).

24. Trooper Pierce was not able to locate anyone by the name of Tracey Smith at the address provided. (Pierce Deposition, p. 55).

25. Plaintiff had in her possession two different photo identifications. (Shurney Deposition, pp. 36-37).

26. Trooper Pierce was directed by his coach to prepare a Criminal Complaint and Affidavit of Probable Cause setting forth the factual information in support of the arrest. (Pierce Deposition, pp. 21-23).

27. Plaintiff was timely arraigned before Magisterial District Judge, Frank Abate. (*Id.* at p. 23).

28. Magistrate Abate asked plaintiff to explain what happened. Plaintiff explained to Magistrate Abate that her cousin, Tracey Smith, had made the reservation

and provided the credit card information necessary to secure the reservation. (Shurney Deposition, pp. 109-110).

29. After reviewing the evidence and listening to plaintiff's explanation, Magistrate Abate committed plaintiff to Erie County Prison in lieu of \$10,000 straight bail. (*Id.*)

30. The remaining people in plaintiff's party, including her son, checked into another hotel and spent the weekend at Splash Lagoon. (*Id.* at p. 116).

31. Plaintiff was released on July 9, 2004 when her boyfriend posted bond. (*Id.* at pp.43-44).

32. On August 13, 2004, a preliminary hearing was held before Magisterial District Judge, James J. Dwyer of District 06-3-05 at which time no testimony was presented. Magistrate Judge Dwyer dismissed the charges. (*Id.*)

Respectfully submitted,

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Date: March 30, 2006

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Concise Statement of Material Facts was electronically served on all counsel of record, this 30th day of March, 2006.

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